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District Counsel

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE
REGIONAL MEDICAL CENTER,

Debtor.

Tax ID #: 94-6002897
Address: 869 N. Cherry Street
Tulare, CA 93274

CASE NO. 17-13797

DC No.: WW-4

Chapter 9

Date: N/A
Time: N/A
Place: 2500 Tulare Street
Fresno, CA 93721
Courtroom 13
Judge: Honorable René Lastreto II

EXHIBIT TO THE DECLARATION OF MIKE JAMAICA IN SUPPORT OF
STATEMENT OF QUALIFICATIONS AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT BY TULARE LOCAL HEALTHCARE DISTRICT, dba
TULARE REGIONAL MEDICAL CENTER

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Dated: October 26, 2017

WALTER WILHELM LAW GROUP
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By: Riley C. Walter
Riley C. Walter, Attorneys for Debtor
Tulare Local Healthcare District

EXHIBIT A

THE DISTRICT

Tulare Local Health Care District (the "District") is a political subdivision of the State of California, created in 1946 by the Board of Supervisors of Tulare County, California. The District is organized and operates under the Local Health Care District Law of the State of California, constituting Division 23 of the California Health and Safety Code (the "District Law"). The District is located in western Tulare County and covers an area of approximately 450 square miles.

Cities and communities located within the District's boundaries include, in addition to the city of Tulare, the communities of Tipton, Pixley, Earlimart, Woodville and Waukena. The District is a political agency and collects a portion of its operating property tax revenues annually based upon the assessed value of taxable real property located within the District. The District is able to use these operating tax revenues for general operating purposes, although, they are not pledged to the Trustee on the Revenue Bond for the repayment of the Bonds until deposited into the Revenue Fund.

The District owns Tulare District Hospital (the "Hospital") under the provisions of the District Law. The 2017 estimated population of the city of Tulare and Tulare County is 70,000 and 475,000, respectively. Management of the District estimates there are approximately 70,000 residents living within its boundaries and approximately 120,000 residents living within the Hospital's service area. The District owns the Hospital, an allied services center, several health clinics, and a health center operated as a department of the Hospital (collectively referred to herein as the "Health Facilities"). The

Hospital is currently operated by Healthcare Conglomerate Associates, LLC ("HCCA") under a fifteen year contract the District seeks to reject.

THE HOSPITAL AND HEALTH FACILITIES

The District owns the Hospital, an acute care facility licensed by the State of California Department of Health Services, located in Tulare, California. The original Hospital opened with 74 beds in 1951 on its present eight acre site.

At Present the Hospital is operated by Healthcare Conglomerate Association, LLC ("HCCA") under a fifteen year contract signed by a prior board of directors on May 29, 2014. The current board contends this is an illegal, void, and grossly unfavorable contract and has asked the Bankruptcy Court to allow rejection of the contract.

The present complement of licensed beds constitutes the only licensed acute care beds available in the District's primary service area. Historically, approximately 80 percent of the Hospital's admissions originate from District residents, but this is down to closer to 50% given the controversies.

In addition to the Hospital, the District owns multiple buildings used primarily for medical office space for physicians and owns the following other facilities:

Evolutions Fitness and Rehabilitation Center. The District owns and operates an approximate 55,000 square foot building, constructed in 2005, that provides physical rehabilitation therapy, cardiovascular training and other services (the "Evolutions Fitness and Rehabilitation Center"). The Evolutions Fitness and Rehabilitation Center is located approximately 3 miles east of the Hospital on land owned by the District and includes a 1/10th mile indoor track, a 25-yard indoor lap pool, a therapy pool and three group exercise rooms having

more than 150 pieces of fitness equipment.

Allied Services Center. The District owns an approximate 23,000 square foot two-story building, constructed in 1989 that house an outpatient laboratory, human resources department, finance and administrative offices, a medical education library and conference/meeting rooms. This facility is commonly referred to as the Allied Services Center. The Allied Services Center is located adjacent to the Hospital on land owned by the District.

BOARD OF DIRECTORS

The District is governed by a Board of Directors (the "Board") that consists of five members, each elected by districts to four-year staggered terms. The Board has ultimate responsibility¹ for quality patient care, District policies, strategic planning, as well as fiduciary responsibility for protecting and enhancing the District's assets. The Board hires a Chief Executive Officer, (Dr. Benny Benveezi of HCCA currently claims to hold this position pursuant to the disputed contract), to manage the District's operations and appoints physicians to an organized medical staff. Regular Board meetings are held monthly and are open to the public pursuant to the Brown Act, California's open meeting law for local governmental agencies such as the District. The current members of the Board, including their titles, occupations, dates on which their current terms expire and total years as Board members, are set forth in the following table:

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¹ The Board contends that many of these duties have been usurped by HCCA and this is a part of the legal dispute between the District and HCCA.

<u>Name and Title</u>	<u>Occupation</u>	<u>Term In</u>
Kevin Northcraft	Former City Manager	2017
Mike Jamaica	Retired UPS Driver	2017
Senovia Gutierrez	Community Leader	2017
Xavier Avila	Dairyman	2017
Vacant		N/A

There are three committees of the Board each of which consists of two Board members. The District's Chief Executive Officer is permitted to attend these meetings. Special committees may be formed for a specific task by appointment of the Board's President with full Board concurrence. The District's current committees include:

Finance and Audit Committee. This committee oversees the financial management and budget of the District, in consultation with an independent auditor selected by the Board. It consists of two Board members and staff.

Compliance Committee. This committee is responsible for overseeing implementation, execution, and effectiveness of the compliance program in ensuring compliance with applicable statutes, regulations, and other Federal health care program requirements. It consists of two Board members, Chief Executive Officer, Chief Financial Officer, general counsel, Compliance Officer, and other personnel from relevant functional departments as the committee deems necessary.

Building/Planning/Facilities Committee. This committee oversees the compliance of all agreements related to District assets, including issues of fair market value to protect against gifts of public funds; it also sets lease/rental rates and ensures lessee/tenant

compliance with lease/rental agreements and works with the District's architect on master planning and construction projects to develop the Hospital campus. It consists of two Board members and necessary staff.

Ad Hoc or Special committees may be established by the Board President with the approval of the Board for such special tasks as circumstances warrant. It is the duty of the President to appoint the chairperson and member of each Ad Hoc or Special committee. The Ad Hoc or Special committee limits its activities to the accomplishments of the task for which it is appointed and has no power to act, except as is specifically conferred by action of the Board. Upon completion of the task for which appointed, such Ad Hoc or Special committee will be discharged.

All powers and functions of the District not expressly delegated to others are vested in the Board. The Board has ultimate responsibility for establishing the policies of the District, including the appointment of a Chief Executive Officer and the appointment of members to the medical staff.² The Board meets at least monthly.

SENIOR MANAGEMENT

The District employs a Chief Executive Officer² as its direct representative in the management of the Health Facilities. By the bylaws, the Chief Executive Officer has overall responsibility for the daily administration of the Health Facilities, the direction and supervision of all department heads, the preparation of an annual budget, the employment of District personnel, the maintenance of the Health Facilities, the supervision of the business affairs of the District, the purchasing of equipment, and such other duties as are in the best interest of the District.

² See footnote 1:

EMPLOYEES

As of October 1, 2017, the District employed zero full-time equivalent employees. However, HCCA employed and leased to the District about 525___ employees. Included in this group are registered nurses, licensed vocational nurses, technicians, specialists, environment and food service personnel, and various management, supervisory and clerical personnel. The District is not a party to any agreements with collective bargaining organizations, but the District is aware of increased initiatives to organize healthcare workers in Central California and the District could become a target of union organizers in the future. The District has in the past experienced shortages of specialized staff and nursing personnel and has supplemented existing staff with registry personnel.

MEDICAL STAFF

In 2016 Dr. Benveezi terminated the privileges of all of the district's physicians. This lead to many of the formerly credentialed physicians refusing to refer patients to the Hospital which has contributed to the District's financial woes. Dr. Betre, former chief of medicine, is lead plaintiff in a suit stemming from the termination of medical privileges where plaintiffs are seeking damages plus over \$1 million in legal fees.

If the HCCA contract is rejected the Board believes these physicians who were terminated will return, be readmitted to the medical staff and resume referring their patients to the hospital.

AFFILIATES

The District is affiliated with the following organizations that are not obligated nor are their revenues and assets pledged or otherwise available for repayment of the Bonds. The District plans for and evaluates potential affiliations as part of its overall strategic

planning process where there are strategic or operational benefits to be realized.

Tulare Hospital Foundation. The Tulare Hospital Foundation (the "Foundation") was established in 1987 as an exempt organization under Internal Revenue Service Code Section 501(c)(3) to raise funds to support the operation of the Hospital. The Foundation's bylaws provide that all funds raised, except for funds required for operation of the Foundation, be distributed to or held for the benefit of the Hospital. The Foundation's general funds, which represent the Foundation's unrestricted resources, will be distributed to the District in amounts and in periods determined by the Foundation's Board of Trustees, who may also restrict the use of the general funds for Hospital plant replacement or expansion or other specific purposes. The Foundation has a membership of over 1,500 community members, employees, medical staff and an advisory board of approximately 75 Trustees. The Foundation has historically been a major contributor to the District but these contributions have decreased due to the community controversies over the HCCA contract.

Tulare District Hospital Auxiliary. A nonprofit organization founded in 1958 to support the charitable purposes of the District. Today, the Auxiliary primarily operates the Hospital Gift Shop and provides services to patients at the Hospital. The Auxiliary is governed by a 12-member governing board.

Educational Institutions. The District has established an affiliation with the College of the Sequoias to provide clinical training for registered nurses, licensed vocational nurses and emergency medical technicians. It also provides training for students attending Porterville College's licensed vocational nursing program and for students in the nurses' aid program at the Tulare Adult School. These programs assist

the District in maintaining a full complement of qualified health care staff.

The District contracts with various other medical providers for clinical professional services in the areas of non-invasive cardiology, cardiac catheterization, pathology, anesthesia, emergency medicine and imaging. The District has also affiliated with a private company to provide group purchasing services. The District plans for and evaluates potential affiliations as part of its overall strategic planning.

SERVICE AREA AND COMPETITION

The Hospital is the only acute care hospital located within the District's boundaries and within its primary service area. The Hospital's primary service area is comprised of the western portion of Tulare County and includes the city of Tulare and the communities of Woodville, Waukena, Tipton, Earlimart and Pixley. The Hospital serves a semi-rural population with a large majority of its admissions coming from within its service area. Tulare County is located in central California and has a current population of over 450,000.

Services not provided at the Hospital include heart surgery, transplants, neurosurgery and some high intensive children related cases.

SERVICES

The District presently³ offers a range of inpatient and outpatient care services at the Health Facilities, including basic medical, emergency, surgical and obstetrical services, in addition to its general and administrative services. Medical and surgical services currently provided at the Health Facilities include the following:

³ The precise range of services is in flux as HCCA has recently not been providing all of the services historically provided or mandated by contract.

Medical Services

Cardiac Cath lab	Internal Medicine	Oncology
Cardiopulmonary	Laboratory, Clinical	Pediatrics
Therapy		
CT Scanning	Laboratory, Pathology/Forensic	Pharmacy
Diagnostic Radiology	Lithotripsy	Physical Therapy
Endoscopy	Low Risk Maternity	Pulmonary Testing
Family Practice	Magnetic Resonance Imaging	Respiratory Therapy
General Practice	Mammography	Sleep Lab
Gynecology	Newborn Nursery	Social Services
Hematology	Nuclear Medicine Imaging	Telemetry
Intensive Care	Occupational Therapy	Ultrasound

Surgical Services

Anesthesiology	General	Ophthalmology
ENT	Gynecology	Orthopedics
Gastro Intestinal		

In addition, the Hospital provides 24-hour emergency medical services³ with a licensed physician on duty at all times and home health care services.

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ACCREDITATIONS AND MEMBERSHIPS

The Hospital has been fully accredited by the Joint Commission on Accreditation of Healthcare Organizations and the California Medical Association since 1951.

The District is an eligible provider under Medicare, Medi-Cal, Blue Cross and other commercial insurance programs and holds memberships in the California Association of Hospitals and Health Systems, Association of California Healthcare Districts, Hospital Council of Northern and Central California, Tulare Chamber of Commerce and other professional health care organizations.

BED COMPLEMENT

The Hospital has a current licensed capacity of 112 beds.

Bed Type

Medical/Surgical

Intensive Care

Pediatrics

Perinatal/Obstetrics

Neonatal Intensive

SOURCES OF PATIENT SERVICE REVENUE

The District participates in the Medicare and Medi-Cal programs. The percentage of gross patient revenues derived from Medicare, Medi-Cal, is quite large. Because of varying contractual allowances to third-party payors, net patient revenues do not correspond directly to gross patient revenues.

Medicare is a federal program, administered by the Centers for Medicare and Medicaid Services, available to individuals age 65 or over and certain disabled persons.

Medicaid is a federal and state program, known as Medi-Cal in California, under which the Hospital furnishes services to program eligible persons. Inpatient acute care services rendered to Medicare program beneficiaries are paid at prospectively determined rates per discharge. These rates vary according to a patient classification system that is based on clinical, diagnostic and other factors. Outpatient services are generally paid under an outpatient classification system subject to certain limitations.

Medi-Cal inpatient (non-HMO) services rendered at the Hospital are reimbursed based upon reasonable costs. Outpatient services rendered are reimbursed on pre-determined charge screens. The Hospital is paid for cost reimbursement services at an interim rate with final settlement determined after submission of annual cost reports by the Hospital and audits by the Medi-Cal fiscal intermediary. HMO Medi-Cal patient charges are reimbursed on a pre-determined rate and are not subject to cost reimbursement.

Adults who do not meet Medi-Cal eligibility criteria but who are medically indigent, as defined by California law, are eligible for medical services under the state-funded "MIA" program. The County of Tulare administers the MIA program by contracting with providers on the same basis as the Hospital receives reimbursement for Medi-Cal patients. Currently, all hospitals located in Tulare County are MIA contract providers.

The District has contracts with numerous prepaid plans and preferred providers. Blue Cross and Health Net contract with the District for Medi-Cal managed care patients. Currently approximately 35% of the Medi-Cal population served by the District has signed up with one of the managed care plans.

OTHER INFORMATION

Public and Professional Liability Insurance Considerations

The Hospital currently carries comprehensive liability insurance. The Hospital ~~contracts such insurance through a joint powers authority ("BETA Healthcare Group")~~ under California law authorizing governmental agencies, such as local health care districts, to join together for insurance purposes. Approximately 86 participants representing health care districts and city and county hospitals participate in BETA Healthcare Group. Coverage is on a claims-made basis.

BETA Healthcare Group is funded by monthly contributions paid by the health care providers participating in BETA Healthcare Group. The contributions are used to fund a reserve for expected losses to be paid by BETA Healthcare Group on a pooled, self-insured basis. The amount of the monthly contribution to be paid by a member is based on independent actuarial computations taking into account factors such as, among others, total number of beds, outpatient and inpatient visits, surgeries, deductible and loss experience of the member. The reserve for claims and claims expenses has been determined using the developed loss and loss expense method. As of October 1, 2017 the District was delinquent on its obligation to BETA.

As of October 1, 2017 there were about 15+ pending malpractice suites in which the District was a named defendant and the Board believes all such suits are covered by insurance.⁴

⁴ There are other suits pending for other civil matters including a suit by HCCA against the District for breach of contract and the above mentioned suit for termination of the medical staff by Dr. Benveezi where there is exposure of over \$1 million.

Employees' Retirement and Deferred Compensation Plans

The District presently sponsors two tax-qualified retirement plans.

The Tulare Local Hospital District Money Purchase Pension Plan (the "Retirement Plan") is a defined contribution money purchase pension plan established by the District to provide retirement benefits for substantially all District employees.

The District also has adopted the Tulare Local Hospital District Social Security Alternative Savings Plan to provide retirement benefits as an alternative to Social Security. This plan is available to all District employees who would otherwise have been covered by Social Security.

The status of these plans is unknown to the Board and HCCA has refused to provide the needed information.